

AMENDED IN SENATE MAY 6, 2013

SENATE BILL

No. 55

Introduced by Senator Hill

(Coauthor: Assembly Member Cooley)

December 28, 2012

An act to add Chapter 5.1 (commencing with Section 23710) to Division 11.5 of the Vehicle Code, relating to ignition interlock devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 55, as amended, Hill. Ignition interlock devices: repeat driving under the influence offenders.

Existing law requires a person's privilege to operate a motor vehicle to be suspended or revoked for a specified period of time if the person has been convicted of violating specified provisions prohibiting driving a motor vehicle while under the influence of an alcoholic beverage or drug or the combined influence of an alcoholic beverage and drug, or with 0.08% or more, by weight, of alcohol in his or her blood or while addicted to the use of any drug, with or without bodily injury to another. Existing law also authorizes a person whose privilege is suspended or revoked in that manner to receive a restricted driver's license if specified requirements are met, including, in some instances, the installation of an ignition interlock device on the person's vehicle.

This bill would, *commencing July 1, 2014*, establish a statutory scheme under which, as a condition of being issued a restricted driver's license, being reissued a driver's license, or having the privilege to operate a motor vehicle reinstated for a 2nd or subsequent conviction for a violation of the above offenses, ~~require~~ a person *would be required* to install for a specified period of time an ignition interlock device on all vehicles he or she owns or operates, except as provided. The amount

of time the ignition interlock device would be required to be installed would be based upon the number of convictions, as prescribed. The bill would require the department, with regard to the installation of an ignition interlock device described above, to notify the person of the ignition interlock device installation requirements established under the bill, accept notification from the installer of the ignition interlock device of attempts to remove, bypass, or tamper with the ignition interlock device or if the person fails 3 or more times to comply with the maintenance requirements, monitor the installation and maintenance of the ignition interlock device, and keep specified records. The bill would also require that manufacturers and manufacturer's agents, certified by the department to provide ignition interlock devices, adopt a fee schedule for payment of the costs of the ignition interlock device based on the offender's ability to pay, and would require the court to adopt a similar fee schedule with regard to the fees for the county alcohol and drug problem assessment program.

Because it is a crime to operate a vehicle that is not equipped with a functioning, certified ignition interlock device by a person whose driving privilege is so restricted, the bill would impose a state-mandated local program by expanding the scope of that crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5.1 (commencing with Section 23710)
2 is added to Division 11.5 of the Vehicle Code, to read:
3
4 CHAPTER 5.1. REPEAT OFFENDER IGNITION INTERLOCK DEVICES
5
6 23710. (a) (1) Notwithstanding any other provision of law,
7 the Department of Motor Vehicles, upon receipt of the court's
8 abstract conviction for a violation listed in paragraph (7), shall
9 inform the convicted person of the requirements of this section,
10 including the term for which the person is required to have a

1 certified ignition interlock device installed. The records of the
2 department shall reflect the mandatory use of the device for the
3 term required and the time when the device is required to be
4 installed by this code.

5 (2) The department shall advise the person that installation of
6 an ignition interlock device on a vehicle does not allow the person
7 to drive without a valid driver's license.

8 (3) Before a driver's license may be issued, reissued, or returned
9 to a person after a suspension or revocation of that person's driving
10 privilege that requires the installation of an ignition interlock
11 device, a person who is notified by the department pursuant to
12 paragraph (1) shall complete all of the following:

13 (A) Arrange for each vehicle owned or operated by the person
14 to be fitted with an ignition interlock device by a certified ignition
15 interlock device provider under Section 13386.

16 (B) Provide the department proof of installation by submitting
17 the "Verification of Installation" form described in paragraph (2)
18 of subdivision (g) of Section 13386.

19 (C) Pay the fee, determined by the department, that is sufficient
20 to cover the reasonable costs of administration of this section.

21 (4) The department shall place a restriction on the driver's
22 license record of the convicted person that states the driver is
23 restricted to driving only vehicles equipped with a certified ignition
24 interlock device.

25 (5) (A) A person who is notified by the department pursuant to
26 paragraph (1) shall arrange for each vehicle with an ignition
27 interlock device to be serviced by the installer at least once every
28 60 days in order for the installer to recalibrate and monitor the
29 operation of the device.

30 (B) The installer shall notify the department if the device is
31 removed or indicates that the person has attempted to remove,
32 bypass, or tamper with the device, or if the person fails three or
33 more times to comply with any requirement for the maintenance
34 or calibration of the ignition interlock device.

35 (6) The department shall monitor the installation and
36 maintenance of the ignition interlock device installed pursuant to
37 paragraph (1).

38 (7) A person is required to install an ignition interlock device
39 for the applicable term as a condition of being issued a restricted
40 driver's license, being reissued a driver's license, or having the

1 privilege to operate a motor vehicle reinstated subsequent to a
2 conviction for a violation or a suspension of a person's driver's
3 license, as follows:

4 (A) A person convicted of a violation of Section 23152 shall
5 be required to install an ignition interlock device, as follows:

6 (i) Upon a second offense, the person shall install an ignition
7 interlock device in all vehicles owned or operated by that person
8 for a mandatory term of 12 months.

9 (ii) Upon a third offense, the person shall install an ignition
10 interlock device in all vehicles owned or operated by that person
11 for a mandatory term of 24 months.

12 (iii) Upon a fourth offense or any subsequent violation, the
13 person shall install an ignition interlock device in all vehicles
14 owned or operated by that person for a mandatory term of 36
15 months.

16 (B) A person convicted of a violation of Section 23153 shall
17 install an ignition interlock device, as follows:

18 (i) Upon a second offense, the person shall install an ignition
19 interlock device in all vehicles owned or operated by that person
20 for a mandatory term of 24 months.

21 (ii) Upon a third offense, the person shall install an ignition
22 interlock device in all vehicles owned or operated by that person
23 for a mandatory term of 36 months.

24 (iii) Upon a fourth offense or any subsequent violation, the
25 person shall install an ignition interlock device in all vehicles
26 owned or operated by that person for a mandatory term of 48
27 months.

28 (C) The terms prescribed in this paragraph shall begin once a
29 person has provided to the department proof of installation pursuant
30 to paragraph (2) of subdivision (h) of Section 13386 and upon
31 restoration of the driving privilege pursuant to Section 13352.

32 (8) A person who is notified by the department, pursuant to this
33 subdivision, is exempt from the requirements of this subdivision
34 if within 30 days of the notification, the person certifies to the
35 department all of the following:

36 (A) The person does not own a vehicle.

37 (B) The person does not have access to a vehicle at his or her
38 residence.

39 (C) The person no longer has access to the vehicle being driven
40 by the person at the time he or she was arrested for a violation that

1 subsequently resulted in a conviction for a violation listed in this
2 subdivision.

3 (D) The person acknowledges that he or she is only allowed to
4 drive a vehicle that is fitted with a functioning ignition interlock
5 device.

6 (E) The person acknowledges that he or she is required to have
7 a valid driver's license before he or she can drive.

8 (F) The person is subject to the requirements of this section
9 when he or she purchases or has access to a vehicle.

10 (9) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply
11 to this section.

12 (10) If a person fails to comply with any of the requirements
13 regarding ignition interlock devices, the mandatory term for which
14 the ignition interlock device is required to be installed shall be
15 reset by the department.

16 (b) (1) Every manufacturer and manufacturer's agent certified
17 by the department to provide ignition interlock devices, under
18 Section 13386, shall adopt the following fee schedule that provides
19 for the payment of the costs of the ignition interlock device by
20 offenders subject to this chapter in amounts commensurate with
21 that person's income relative to the federal poverty level, as defined
22 in Section 127400 of the Health and Safety Code:

23 (A) A person with an income at 100 percent of the federal
24 poverty level and below is responsible for 10 percent of the cost
25 of the ignition interlock device. The ignition interlock device
26 provider is responsible for absorbing the cost of the ignition
27 interlock device that is not paid by the person.

28 (B) A person with an income at 101 to 200 percent of the federal
29 poverty level is responsible for 25 percent of the cost of the ignition
30 interlock device. The ignition interlock device provider is
31 responsible for absorbing the cost of the ignition interlock device
32 that is not paid by the person.

33 (C) A person with an income at 201 to 300 percent of the federal
34 poverty level is responsible for 50 percent of the cost of the ignition
35 interlock device. The ignition interlock device provider is
36 responsible for absorbing the cost of the ignition interlock device
37 that is not paid by the person.

38 (D) All other offenders are responsible for 100 percent of the
39 cost of the ignition interlock device.

1 (2) The cost of the ignition interlock device may only be raised
2 annually equal to the Consumer Price Index.

3 (3) The offender's income may be verified by presentation of
4 that person's current federal income tax return or three months of
5 monthly income statements.

6 (c) This section does not permit a person to drive without a valid
7 driver's license.

8 (d) The requirements of this section are in addition to any other
9 requirements of law. *A person subject to this section shall comply*
10 *with all applicable provisions of Section 13352 before a driver's*
11 *license may be issued, reissued, or returned to the person.*

12 (e) For the purposes of this section, "vehicle" does not include
13 a motorcycle until the state certifies an ignition interlock device
14 that can be installed on a motorcycle. A person subject to an
15 ignition interlock device restriction shall not operate a motorcycle
16 for the duration of the ignition interlock device restriction period.

17 (f) *This section shall become operative on July 1, 2014.*

18 SEC. 2. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.